

**REMARKS**

**ACKNOWLEDGEMENT OF THE WITHDRAWAL OF THE FINALITY OF THE OFFICE ACTION**

Applicant wishes to thank the Examiner and his Supervisory Examiner for indicating that the finality of the Office Action has been withdrawn. Applicant respectfully requests written acknowledgement of this in the next Office Action.

**RESPONSE TO SECTION 102 REJECTIONS**

Claims 1, 3-11 and 13-32 were rejected under 35 U.S.C. §102(e) as being anticipated by Shimbashi et al., U.S. Patent No. 6,798,779 ("Shimbashi"). Applicant respectfully disagrees and traverses this rejection for at least the following reasons.

Claims 1-19 require, among other things, a controller which is configured to examine traffic overhead information to determine whether to route traffic to one or more circuit switch fabrics or one or more packet switch fabrics. Claims 20-32 require similar routing but also include the feature that the overhead information comprises a SONET/SDH path, C2 overhead byte.

In contrast, Shimbashi does not disclose or suggest the examination of traffic overhead information to determine whether to route traffic to a circuit switch fabric or a packet switch fabric, as in the claims 1-32 of the present invention.

Shimbashi appears to disclose a centralized control module 32 which sends signals to an STS switching module, a VT switching module, or a ATM switching module when a fault is detected. However, Shimbashi does not disclose how the centralized control module 32 detects whether an incoming signal is a real-time or non-real-time signal in order to route the traffic to a circuit switch or packet switch fabric, as in the claims of the present invention. Though Shimbashi appears to disclose the switching of a SONET-based signal, there is no disclosure that the switching is based on an examination of traffic overhead information, much less the C2 overhead byte. The fact that Shimbashi may disclose the well-known SONET frame overhead signal is not tantamount to a disclosure or a suggestion of an examination of such an overhead signal, as in the claims of the present invention.

Accordingly, because Shimbashi does not disclose each and every element of the claims of the present invention, Applicant respectfully requests withdrawal of the pending rejections and allowance of claims 1, 3-11 and 13-32.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

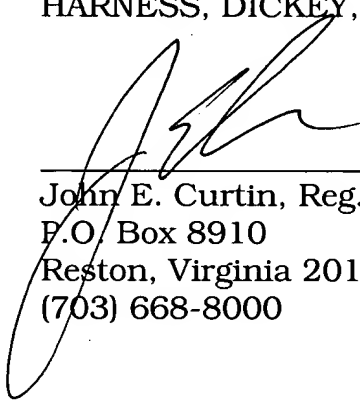
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



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